



Housing Associations Act 1985

1985 CHAPTER 69

PART II

HOUSING ASSOCIATION FINANCE

Housing association grants

41 Housing association grants

- (1) The Secretary of State may make grants (" housing association grants ") to registered housing associations in respect of their expenditure in connection with housing projects which are approved by him or fall within an approved development programme.
- (2) An approved development programme is a programme for the development of housing by registered housing associations prepared by the Housing Corporation or a local authority and for the time being approved by the Secretary of State for the purposes of this section.

42 Projects qualifying for grant: accommodation for letting, hostels

- (1) A project is a housing project for the purposes of housing association grant if it is undertaken for the purpose of—
 - (a) providing dwellings for letting,
 - (b) providing a building for use as a hostel,
 - (c) improving or repairing such accommodation, or
 - (d) providing land or buildings which, in the opinion of the Secretary of State, will be for the benefit of persons for whom such accommodation is provided, or improving or repairing such buildings.
- (2) In subsection (1)—
 - (a) " letting " in paragraph (a) includes the grant of a shared ownership lease, and

Status: This is the original version (as it was originally enacted).

(b) in paragraph (b) " building " includes part of a building and " hostel" includes part of a hostel.

(3) References in this section to letting or the grant of a lease include the grant of a licence to occupy.

43 Projects qualifying for grant: improvement for sale

A project where a registered housing association, after carrying out works of repair, improvement or conversion—

- (a) disposes of a house as one dwelling,
- (b) divides a house into two or more separate dwellings and disposes of them, or
- (c) combines two houses to form one dwelling and disposes of it,

is a housing project for the purposes of housing association grant.

44 Projects qualifying for grant: repair or improvement after exercise of right to buy etc.

(1) A project where a registered housing association carries out works of repair or improvement to a dwelling-house, or to the building in which a dwelling-house is situated, after the tenant has exercised, or claimed to exercise, the right to buy or the right to a shared ownership lease under Part V of the Housing Act 1985 is a housing project for the purposes of housing association grant.

(2) Where in such a case a housing association grant is made after the tenant has exercised the right to buy or the right to be granted a shared ownership lease, the Secretary of State may reduce the amount of the grant.

(3) In this section " dwelling-house " has the same meaning as in Part V of the Housing Act 1985.

45 Projects qualifying for grant: disposal to tenant of charitable housing association etc.

(1) A project where a registered housing association first acquires a house and then disposes of it at a discount to a tenant to whom this section applies is a housing project for the purposes of housing association grant.

(2) This section applies to a tenant of a publicly-funded dwelling who, but for paragraph 1 of Schedule 5 to the Housing Act 1985 (exceptions to the right to buy: landlord a charitable housing trust or housing association) would have the right to buy.

(3) A dwelling is publicly-funded for this purpose if housing association grant has been paid in respect of a project which included—

- (a) the acquisition of the dwelling,
- (b) the acquisition of a building and the provision of the dwelling by means of the conversion of the building, or
- (c) the acquisition of land and the construction of the dwelling on the land.

(4) Where a registered housing association contracts for the acquisition of a house and, without taking the conveyance, grant or assignment, disposes of its interest to a tenant to whom this section applies, subsection (1) and the following provisions have effect as if the association first acquired the house and then disposed of it to the tenant—

section 8 (disposal of land by registered housing associations),
section 9 (consent of Housing Corporation to disposals),
Schedule 2 (covenants for repayment of discount on early disposal and restricting disposal of houses in National Parks, &c),
section 79(2) (power of Housing Corporation to lend to person acquiring interest from registered housing association), and
section 130 of the Housing Act 1985 (reduction of discount on exercise of right to buy where previous discount given).

46 Applications for housing association grant

- (1) A housing association grant is not payable in respect of a project unless an application for it is submitted to the appropriate body.
- (2) The appropriate body in England and Wales is—
 - (a) where the housing association concerned makes an application to a local authority for a loan under section 58(2) in connection with the project, that authority, and
 - (b) in any other case, the Housing Corporation.
- (3) The appropriate body in Scotland is a local authority, the Housing Corporation or the Secretary of State.
- (4) Where a local authority or the Housing Corporation receive an application under this section, they shall forward it to the Secretary of State together with their own assessment of the project.

47 Amount of housing association grant: net cost

- (1) The housing association grant payable in respect of a project is equal to the net cost of the project to the association, determined in accordance with the following provisions, but subject to section 48 (maximum levels of cost and grant).
- (2) The net cost of a project to the association is the difference between—
 - (a) the estimated expenditure of the association which is, in the opinion of the Secretary of State, attributable to the project and is reasonable and appropriate having regard to all the circumstances, and
 - (b) the estimated income which, in the opinion of the Secretary of State, the association might reasonably be expected to receive in respect of the project, including sums received or to be received by way of grant 01 subsidy, other than sums received or to be received by way of housing association grant.
- (3) Estimated expenditure and estimated income for this purpose shall be calculated in such manner as the Secretary of State may, with the consent of the Treasury, from time to time determine, and the calculation may take account of expenditure and income likely to be incurred or received in connection with the premises to which the project relates after the completion of the project.
- (4) Before making a general determination under subsection (3) the Secretary of State shall consult such bodies appearing to him to be representative of housing associations as he considers appropriate.

Status: This is the original version (as it was originally enacted).

- (5) In determining the net cost of a project the Secretary of State may adopt the assessment of the body forwarding the grant application to him under section 46.
- (6) If in the case of an application for a housing association grant in respect of a particular project it appears to the Secretary of State appropriate to do so, he may determine the net cost in such manner as he considers appropriate instead of in accordance with the preceding provisions.

48 Amount of housing association grant: maximum levels of cost and grant

- (1) The Secretary of State may, with the consent of the Treasury, determine maximum levels of cost or of housing association grant applicable to—
 - (a) housing projects generally,
 - (b) any description of housing project, or
 - (c) a particular housing project,
 and the amount of grant payable shall be limited in accordance with any such determination.
- (2) Before making a general determination under subsection (1) the Secretary of State shall consult such bodies appearing to him to be representative of housing associations as he considers appropriate.
- (3) The maximum grant which may be paid for any one dwelling in a case of the kind mentioned in section 43 (where dwelling disposed of after conversion, &c.) is—
 - (a) in respect of a dwelling in Greater London or the City of Glasgow district, £12,500,
 - (b) in respect of a dwelling elsewhere, £9,500,
 or such other sum as the Secretary of State may prescribe by order made with the consent of the Treasury.
- (4) An order—
 - (a) may make different provision for different cases or descriptions of case, including different provision for different areas;
 - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

49 Payment of housing association grants

- (1) A housing association grant in respect of a project is payable either in a single sum or in annual instalments, as the Secretary of State may determine.
- (2) A grant payable in a single sum is payable when in the opinion of the Secretary of State the project is completed or its completion has become impossible.
- (3) A grant payable in annual instalments is payable in instalments—
 - (a) beginning in the financial year in which, in the opinion of the Secretary of State, the project is completed or its completion has become impossible, and
 - (b) continuing over such number of years as he may determine, either generally or in relation to the particular project.
- (4) The Secretary of State may, if he considers it appropriate to do so, make payments on account of the grant at a time earlier than indicated by subsection (2) or (3).

- (5) The Secretary of State may, on such terms as he may with the approval of the Treasury specify, appoint the Housing Corporation or a local housing authority to act as his agent in connection with the making, in such cases as he may specify, of payments in respect of housing association grant; and, where such an appointment is made, the Corporation or authority shall act as such an agent in accordance with the terms of their appointment
- (6) No sum shall be paid in respect of a housing association grant to a body which has been removed from the register of housing associations under section 6.

50 Grant conditions

- (1) The Secretary of State may provide—
- (a) where the project is approved by him for the purposes of housing association grant, in giving his approval, or
 - (b) where the project falls within an approved development programme (and thus does not require separate approval), before first making a payment of grant in respect of the project,
- that the payment of a housing association grant is conditional on compliance by the housing association concerned with such conditions as he may specify.
- (2) The conditions may include, in a case where the project has not yet been completed, conditions as to the period within which it is to be completed.

51 Payment of grant to another association on transfer of property

- (1) The Secretary of State may, where at any time—
- (a) a housing association grant is payable in respect of a project, and
 - (b) a dwelling or hostel to which the project relates, or part of such a dwelling or hostel, becomes vested in, or is leased for a term exceeding seven years to, a registered housing association other than the association by whom the grant application was made, or trustees for such an association,
- pay to that other association the whole or part of the housing association grant, or any instalment of it, which would otherwise have been paid after that time to the association by whom the grant application was made.
- (2) For the purposes of subsection (1) a lease shall be treated as being for a term exceeding seven years where the original term is for a lesser period but the lease confers on the lessee an option for renewal for a term which, together with the original term, exceeds seven years.

52 Circumstances in which grant may be reduced, suspended or reclaimed

- (1) This section applies where a housing association grant has been made to an association and—
- (a) a condition imposed under section 50 is not complied with, or
 - (b) the Secretary of State is satisfied that land to which the grant relates has ceased to be used, or to be available for use, for the purpose for which, at the time the project concerned was approved, it was intended that it should be used, or
 - (c) land to which the grant relates is disposed of (in any manner) by the association, or

Status: This is the original version (as it was originally enacted).

- (d) there is paid to the association, in respect of land to which the grant relates, an amount payable in pursuance of the covenant required by paragraph 1 of Schedule 2 to this Act or section 155 of the Housing Act 1985 (repayment of discount on early disposal) or any other covenant or provision to the like effect, or
 - (e) there is paid to the association, in respect of land to which the grant relates, an amount payable in pursuance of the provision required by paragraph 1 or 6 of Schedule 8 to the Housing Act 1985 (terms of shared ownership lease: acquisition of additional shares or payment for outstanding share on disposal) or any other provision to the like effect.
- (2) Where this section applies, the Secretary of State may—
- (a) reduce the amount of, or of any payment in respect of, the grant,
 - (b) suspend or discontinue any instalment of the grant, or
 - (c) if a payment has been made to the association in respect of the grant, direct the association to pay to him an amount equal to the whole, or such proportion as he may determine, of the amount paid to the association.
- (3) Where, after a housing association grant has been made to an association, there is—
- (a) such a disposal as is mentioned in subsection (1)(c), or
 - (b) such a payment as is mentioned in subsection (1)(d) or (e),
- the association shall notify the Secretary of State, and if so required by written notice of the Secretary of State, shall furnish him with such particulars of and information relating to the disposal or payment as are specified in the notice.
- (4) Where a housing association grant has been made to an association, the Chief Land Registrar may furnish the Secretary of State with such particulars and information as he may reasonably require for the purpose of determining—
- (a) whether there has been such a disposal as is mentioned in subsection (1)(c), or
 - (b) whether there has been made such a payment as is mentioned in subsection (1)(d) or (e).

53 Recoupment of surplus rental income

- (1) A registered housing association which has at anytime received a housing association grant shall show separately in its accounts for any period the surpluses arising from increased rental income during that period from housing projects in connection with which the grant was made.
- (2) The surpluses shall be shown by each association in a fund to be known as the Grant Redemption Fund ; and the method of constituting the Fund and of showing it in the association's accounts shall be as required by order of the Secretary of State under section 24 (general requirements as to accounts).
- (3) The surpluses in respect of a period shall be calculated in such manner as the Secretary of State may determine for housing associations generally.
- (4) In making that determination the Secretary of State may take account of—
 - (a) the rental income received or capable of being received by an association, and
 - (b) the management and maintenance costs and loan charges incurred or likely to be incurred by it;

and surpluses may be calculated differently for housing associations of different kinds or dwellings in different parts of Great Britain.

- (5) The manner of calculating surpluses shall be determined after consultation with organisations appearing to the Secretary of State to be representative of registered housing associations, and shall be made known to the associations.
- (6) The Secretary of State may from time to time give notice to a registered housing association requiring it to pay to him, with interest if demanded, or to apply or appropriate for purposes he specifies, any sums standing in its Grant Redemption Fund at the end of a period of account.
- (7) Interest demanded by such a notice is payable—
 - (a) at the rate or rates previously determined by the Secretary of State, with the consent of the Treasury, for housing associations generally and published by him, or, if no such determination has been made, at the rate or rates specified with the consent of the Treasury in the notice ;
 - (b) either from the date of the notice or from such earlier date, not earlier than the end of the period of account, as may be specified in the notice.

Deficit grants

54 Revenue deficit grants

- (1) The Secretary of State may pay a grant (a " revenue: deficit grant") to a registered housing association which incurs a deficit on its revenue account for any period.
- (2) An association incurs such a deficit if its relevant expenditure exceeds its relevant income.
- (3) For this purpose—
 - (a) its relevant expenditure is its expenditure for the period which, in the opinion of the Secretary of State, is attributable to its housing activities and is reasonable and appropriate having regard to all the circumstances, and
 - (b) its relevant income is the income which, in the opinion of the Secretary of State, it might reasonably be expected to receive for the period in respect of its housing activities, including sums by way of grant or subsidy,and income and expenditure shall be calculated in such manner as the Secretary of State may, with the consent of the Treasury, determine.
- (4) The revenue deficit grant payable to an association in respect of a period shall be of such amount as the Secretary of State may determine in relation to that association, but shall not be greater than the amount of the excess determined under subsection (3).
- (5) For the purposes of this section the housing activities of an association do not include activities relating to hostels.

55 Hostel deficit grants

- (1) The Secretary of State may pay a grant (a " hostel deficit grant") to a registered housing association which, in relation to a hostel managed by it, incurs a revenue deficit in respect of any period.

Status: This is the original version (as it was originally enacted).

- (2) An association incurs such a deficit if its relevant expenditure exceeds its relevant income.
- (3) For this purpose—
- (a) its relevant expenditure is its expenditure for the period which, in the opinion of the Secretary of State, is attributable to the hostel and is reasonable and appropriate having regard to all the circumstances, and
 - (b) its relevant income is the income which, in the opinion of the Secretary of State, it might reasonably be expected to receive in respect of the hostel for that period, including sums received or to be received in respect of that period by way of grant or subsidy,
- and income and expenditure shall be calculated in such manner as the Secretary of State may, with the consent of the Treasury, determine.
- (4) The reference in subsection (3) (b) to the income which an association might reasonably be expected to receive in respect of a hostel in a period includes so much as is reasonably attributable to the hostel of sums received or to be received by the association in respect of that period otherwise than by reference to a specific hostel or purpose.
- (5) Where an association which applies for a hostel deficit grant manages more than one hostel, the Secretary of State may, if he considers it appropriate to do so, treat all the hostels managed by the association, or any two or more of them, as a single hostel for the purpose of determining whether the association has incurred a revenue deficit.
- (6) The hostel deficit grant payable to an association in respect of a period shall be such amount as the Secretary of State may determine in relation to that association, but shall not be greater than the amount of the excess determined under subsection (3).

56 Applications for deficit grants

- (1) A revenue deficit grant or hostel deficit grant is payable to an association in respect of a period only if an application complying with this section is made by the association to the Secretary of State and is approved by him.
- (2) An application for either description of grant—
- (a) shall be made within 15 months after the end of the period to which it relates, and
 - (b) shall be in such form and contain such information as the Secretary of State may determine.
- (3) An application for a revenue deficit grant shall be accompanied by the audited accounts of the association for the period to which the application relates.

57 Payment of deficit grants

- (1) A revenue deficit grant shall be paid in a single sum in respect of the period to which it relates.
- (2) A hostel deficit grant shall be paid either in a single sum or in instalments, as the Secretary of State may determine; and if payable by instalments shall be paid at such times and in such manner as the Treasury may direct.

- (3) The Secretary of State may, if he considers it appropriate to do so, make payments on account of a revenue deficit grant or hostel deficit grant which he considers is likely to become payable to an association for any period.
- (4) No sum shall be paid in respect of a revenue deficit grant or hostel deficit grant to a body which has been removed under section 6 from the register of housing associations.

Arrangements with local authorities

58 Powers of local authorities to promote and assist housing associations: England and Wales

- (1) A local authority may promote the formation or extension of or, subject to the provisions of this Act, assist a housing association.
- (2) A local authority may, subject to section 60 (assistance restricted to registered housing associations), for the assistance of a housing association—
 - (a) make grants or loans to the association,
 - (b) subscribe for share or loan capital of the association, or
 - (c) guarantee or join in guaranteeing the payment of the principal of, and interest on, money borrowed by the association (including money borrowed by the issue of loan capital) or of interest on share capital issued by the association, on such terms and conditions as to rate of interest and repayment or otherwise and on such security as the local authority think fit.
- (3) A term of an agreement for such a grant or loan is void if it purports—
 - (a) to limit the aggregate amount of rents payable in respect of dwellings to which the agreement relates or contributions towards the cost of maintaining such dwellings, or
 - (b) to specify a limit which the rent of a dwelling is not to exceed.

59 Powers of local authorities to promote and assist housing associations: Scotland

- (1) A local authority or regional council may promote the formation or extension of or, subject to section 60 (assistance restricted to registered housing associations), assist a housing association whose objects include the erection, improvement or management of housing accommodation.
- (2) A local authority or regional council may, with the consent of and subject to any regulations or conditions made or imposed by the Secretary of State, for the assistance of such an association—
 - (a) make grants or loans to the association,
 - (b) subscribe for share or loan capital of the association, or
 - (c) guarantee or join in guaranteeing the payment of the principal of, and interest on, money borrowed by the association (including money borrowed by the issue of loan capital) or of interest on share capital issued by the association, on such terms and conditions as to rate of interest and repayment or otherwise and on such security as the local authority or regional council think fit.

Status: This is the original version (as it was originally enacted).

- (3) A term of an agreement for such a grant or loan is void if it purports to relate to the rent payable in respect of a house to which the agreement relates or the contributions payable towards the cost of maintaining such a house.
- (4) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

60 Certain assistance restricted to registered housing associations

- (1) Subject to the following provisions of this section, grants, loans and guarantees may be made or given under sections 58(2)(a) and (c) and 59(2)(a) and (c) only if the association is at the time the grant or loan is made, or the guarantee is given, a registered housing association.
- (2) Subsection (1) does not apply in relation to the making of a loan to an unregistered self-build society for the purpose of enabling it to meet the whole or part of the expenditure incurred, or to be incurred, by it in carrying out its objects.
- (3) Nothing in subsection (1) prevents the making of a loan to an unregistered association for the assistance of the association—
 - (a) in connection with works required to be carried out in pursuance of, or the acquisition of an estate or interest in a dwelling or other building for the purposes of, arrangements under section 121 of the Housing Act 1957 or section 155 of the Housing (Scotland) Act 1966 (arrangements with local authorities for the improvement of housing) which were approved by the Secretary of State before 1st April 1975 ;
 - (b) in connection with dwellings which were relevant dwellings for the purposes of section 73 of the Housing Finance Act 1972 (certain dwellings approved for purposes of subsidy before 10th August 1972);
 - (c) in connection with the provision of works which are relevant works, approved for subsidy, within the meaning of section 53 of the Housing (Financial Provisions) (Scotland) Act 1972;
 - (d) in connection with a building scheme within the meaning of section 75 of the Housing Finance Act 1972 (new building subsidy) which was approved by the Secretary of State for the purposes of that section before 1st April 1975 ;
 - (e) in connection with a building scheme or improvement scheme, within the meaning of sections 55 and 57 of the Housing (Financial Provisions) (Scotland) Act 1972 which was approved by the Secretary of State for the purposes of those sections before 1st April 1975.

61 Power of local housing authority to supply furniture to housing association tenants

- (1) A local housing authority may sell, or supply under a hire-purchase agreement, furniture to the occupants of houses provided by a housing association under arrangements made with the authority, and may buy furniture for the purpose.
- (2) In this section " hire-purchase agreement" means a hire-purchase agreement or conditional sale agreement within the meaning of the Consumer Credit Act 1974.

Grants for affording tax relief

62 Grants for affording tax relief

- (1) If a housing association makes a claim to the Secretary of State in respect of a period and satisfies him that throughout the period it was a housing association to which this section applies and its functions either—
 - (a) consisted exclusively of the function of providing or maintaining housing accommodation for letting or hostels and activities incidental to that function, or
 - (b) included that function and activities incidental to that function,the Secretary of State may make grants to the association for affording relief from tax chargeable on the association.
- (2) This section applies to a housing association if—
 - (a) it does not trade for profit, and
 - (b) it is or was registered throughout the period in respect of which the claim is made,and it is not for the time being approved for the purposes of section 341 of the Income and Corporation Taxes Act 1970 (tax treatment of co-operative housing associations).
- (3) References in this section to tax chargeable on an association are to income tax (other than income tax which the association is entitled to deduct on making any payment) and corporation tax.
- (4) A grant under this section may be made—
 - (a) in a case falling within subsection (1)(a) for affording relief from any tax chargeable on the association for the period in respect of which the claim is made, and
 - (b) in a case falling within subsection (1)(b), for affording relief from such part of any tax so chargeable as the Secretary of State considers appropriate having regard to the other functions of the association ;and in any case shall be of such amount, shall be made at such times and shall be subject to such conditions as the Secretary of State thinks fit.
- (5) The conditions may include conditions for securing the repayment in whole or in part of a grant made to an association in the event of tax in respect of which it was made subsequently being found not to be chargeable or in such other events including the association subsequently beginning to trade for profit) as the Secretary of State may determine.
- (6) A claim under this section shall be made in such manner and shall be supported by such evidence as the Secretary of State may direct.
- (7) The Commissioners of Inland Revenue and their officers may disclose to the Secretary of State such particulars as he may reasonably require for determining whether a grant should be made on a claim or whether a grant should be repaid or the amount of such a grant or repayment.

Building society advances

63 Building society advances: certain advances not special advances but subject to their own limit

- (1) An advance to which this section applies is one made by a building society to a housing association on the security of a freehold or leasehold estate by means of a mortgage where—
 - (a) immediately before the execution of the mortgage, the Housing Corporation has an interest in the same freehold or leasehold estate under a mortgage entered into by the housing association, and
 - (b) the security represented by the last-mentioned mortgage is, with the agreement of the Corporation, postponed to the building society's security under the first-mentioned mortgage.
- (2) The following advances—
 - (a) an advance to which this section applies, and
 - (b) an advance which in accordance with section 21(7) of the Building Societies Act 1962 a building society is treated as having made by reason of a transfer from one housing association to another, or from a housing association to the Housing Corporation, or from the Housing Corporation to a housing association, of the mortgagor's interest under a mortgage securing an advance made by the building society,do not constitute special advances as defined by section 21 of the Building Societies Act 1962 and shall not be brought into account under section 22(2)(b) of that Act (ordinary limits on special advances).
- (3) A building society shall not in the first financial year in which it makes advances on the security of freehold or leasehold estate make any advances to which this section applies.
- (4) In any subsequent financial year a building society shall not, except in accordance with a permission under subsection (5), make advances to which this section applies of a total amount which exceeds 15 per cent. of the total of the advances of all descriptions made by the building society in the last preceding financial year on the security of freehold or leasehold estate.
- (5) The Chief Registrar may, if he thinks fit, grant to a building society permission in writing to make advances to which this section applies in excess of the limit imposed by subsection (4), but subject to such other limits as may be specified in the permission.
- (6) For the purposes of this section—
 - (a) " financial year " has the meaning given by section 128 of, and paragraph 11 of Schedule 8 to, the Building Societies Act 1962, subject to paragraph (b) below;
 - (b) for the purposes of subsection (4) if a financial year is shorter or longer than the last preceding financial year, a corresponding reduction or increase shall be made in the figure of 15 per cent. mentioned in that subsection ; and
 - (c) section 21(7) of the Building Societies Act 1962 (deemed advance on transfer of mortgage) applies for the purpose of ascertaining what advances a building society has made in a financial year.

64 Failure to comply with limit on advances an offence

- (1) If a building society does not comply with the requirements of section 63(3), (4) and (5) (limits on advances to which that section applies)—
 - (a) the society and
 - (b) every officer of the society who knowingly or wilfully authorises or permits the failure to comply,commits an offence which is triable either way.
- (2) A society which is convicted of an offence under this section is liable—
 - (a) on conviction on indictment, to a fine, and
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (3) An officer who is convicted of an offence under this section is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both ;
 - (b) on summary conviction, to imprisonment for a term not exceeding three months, or a fine not exceeding the statutory maximum, or both.
- (4) In this section " statutory maximum " has the meaning given by section 74 of the Criminal Justice Act 1982.

65 Building society advances: advances by more than one building society

A building society may make an advance to which section 63 applies by means of a mortgage under which the same freehold or leasehold estate constitutes the security both for that advance and for advances made to the same housing association by one or more other persons by means of the same mortgage, but only if—

- (a) every other person making an advance by means of that mortgage is another building society, and
- (b) the mortgagees in the mortgage all covenant with each other not to transfer their interests as mortgagees to a person who is not a building society.

66 Application of ss. 63 to 65 to Scotland

In the application to Scotland of sections 63 to 65 (building society advances)—

- (a) for the references to freehold or leasehold estate, substitute references to an estate or interest in land ;
- (b) for the references to an advance on the security of freehold or leasehold estate, or to an advance by means of a mortgage, and similar references, substitute references to an advance upon a heritable security ;
- (c) for the references to a mortgage, mortgagor or mortgagee substitute, respectively, references to a heritable security, a debtor in a heritable security and the creditor in a heritable security;
- (d) for the reference to an offence triable either way substitute a reference to an offence triable either summarily or on indictment.

Loans by Public Works Loan Commissioners

67 Loans by Public Works Loan Commissioners: England and Wales

- (1) The Public Works Loan Commissioners may lend money to a housing association—
 - (a) for the purpose of constructing or improving, or facilitating or encouraging the construction or improvement, of houses,
 - (b) for the purchase of houses which the association desires to purchase with a view to their improvement, "and
 - (c) for the purchase and development of land.
- (2) A loan for any of those purposes, and interest on the loan, shall be secured by mortgage of—
 - (a) the land in respect of which that purpose is to be carried out, and
 - (b) such other lands, if any, as may be offered as security for the loan ;and the money lent shall not exceed three-quarters (or, if the payment of the principal of, and interest on, the loan is guaranteed by a local authority, nine-tenths) of the value, to be ascertained to the satisfaction of the Public Works Loan Commissioners, of the estate or interest in the land proposed to be so mortgaged.
- (3) Loans may be made by instalments as the building of houses or other work on land mortgaged under subsection (2) progresses (so, however, that the total amount lent does not at any time exceed the amount specified in that subsection); and a mortgage may be accordingly made to secure such loans so to be made.
- (4) If the loan exceeds two-thirds of the value referred to in subsection (2), and is not guaranteed as to principal and interest by a local authority, the Public Works Loan Commissioners shall require, in addition to such a mortgage as is mentioned in that subsection, such further security as they may think fit.
- (5) Subject to subsection (6), the period for repayment of a loan under this section shall not exceed 40 years, and no money shall be lent on mortgage of any land unless the estate proposed to be mortgaged is either an estate in fee simple absolute in possession or an estate for a term of years absolute of which not less than 50 years are unexpired at the date of the loan.
- (6) Where a loan under this section is made for the purpose of carrying out a scheme for the provision of houses approved by the Secretary of State, the maximum period for the repayment of the loan is 50 instead of 40 years, and money may be lent on the mortgage of an estate for a term of years absolute of which a period of not less than ten years in excess of the period fixed for the repayment of the sums advanced remains unexpired at the date of the loan.

68 Loans by Public Works Loan Commissioners: Scotland

- (1) The Public Works Loan Commissioners may lend money to a housing association—
 - (a) for the purpose of constructing or improving, or facilitating or encouraging the construction or improvement of, houses,
 - (b) for the purchase of houses, and
 - (c) for the purchase and development of land.
- (2) A loan for any of those purposes shall be secured with interest by a heritable security over—

Status: This is the original version (as it was originally enacted).

- (a) the land in respect of which that purpose is to be carried out, and
 - (b) such other land, if any, as may be offered as security for the loan;
- and the money lent shall not exceed three-quarters (or, if the payment of the principal of and interest on the loan is guaranteed by a local authority, nine-tenths) of the value, to be ascertained to the satisfaction of the Public Works Loan Commissioners, of the estate or interest in the land proposed to be burdened.
- (3) Loans may be made by instalments as the building of houses or other work on the land burdened under subsection (2) progresses (so, however, that the total loans do not at any time exceed the amount specified in that subsection); and the heritable security may be granted accordingly to secure such loans so to be made.
 - (4) If the loan exceeds two-thirds of the value referred to in subsection (2), and is not guaranteed as to principal and interest by a local authority, the Public Works Loan Commissioners shall require, in addition to such a heritable security as is mentioned in that subsection, such further security as they may think fit.
 - (5) Subject to subsection (6), the period for repayment of a loan under this section shall not exceed 40 years, and no money shall be lent on the security of any land unless the estate or interest proposed to be burdened is either ownership or a lease of which a period of not less than 50 years remains unexpired at the date of the loan.
 - (6) Where a loan under this section is made for the purposes of carrying out a scheme for the provision of houses approved by the Secretary of State, the maximum period for the repayment of the loan is 50 instead of 40 years, and money may be lent on heritable security over a lease recorded under the Registration of Leases (Scotland) Act 1857 of which a period of not less than ten years in excess of the period fixed for the repayment of the loan remains unexpired at the date of the loan.

Miscellaneous

69 Power to vary or terminate certain agreements with housing associations

- (1) This section applies to agreements of the following descriptions—
 - (a) an agreement for a loan to a housing association by the Housing Corporation under section 2 of the Housing Act 1964;
 - (b) an agreement which continues in force under Part I of Schedule 4 (arrangements with local authority for the provision or improvement of housing);
 - (c) an agreement to which Part II of Schedule 4 applies (subsidy agreements with local authorities);
 - (d) an agreement which continues in force under Part III of Schedule 4 (special arrangements with the Secretary of State);
 - (e) an agreement for a loan or grant to a housing association under section 58(2) or 59(2) (financial assistance by local authorities);
 - (f) a scheme which continues in force under Part V of Schedule 5 (schemes for unification of grant conditions).
- (2) On the application of a party to an agreement to which this section applies, the Secretary of State may, if he thinks fit, direct—
 - (a) that the agreement shall have effect with such variations, determined by him or agreed by the parties, as may be specified in the direction, or

Status: This is the original version (as it was originally enacted).

- (b) that the agreement shall be terminated.
- (3) No variation shall be directed under subsection (2) which would have the effect of including in an agreement a term—
 - (a) limiting the aggregate amount of rents payable in respect of dwellings to which the agreement relates or contributions towards the cost of maintaining such dwellings, or
 - (b) specifying a limit which the rent of a dwelling is not to exceed.

This subsection does not extend to Scotland.

- (4) No variation shall be directed under subsection (2) which would have the effect of including in an agreement a term relating to the rent payable in respect of a house to which the agreement relates or contributions towards the cost of maintaining such a house. This subsection extends to Scotland only.

70 Continuation of arrangements under repealed enactments

The provisions of Schedule 4 have effect in relation to certain arrangements affecting housing associations which continue in force despite the repeal of the enactments under or by reference to which they were made, as follows—

Part I—Arrangements with local authorities for the provision or improvement of housing.

Part II—Subsidy agreements with local authorities.

Part III—Special arrangements with the Secretary of State in Scotland.

71 Superseded contributions, subsidies and grants

The provisions of Schedule 5 have effect with respect to superseded subsidies, contributions and grants, as follows—

Part I—Residual subsidies: England and Wales.

Part II—Residual subsidies: Scotland.

Part III—Contributions and grants under arrangements with local authorities.

Part IV—Contributions under arrangements with the Secretary of State in Scotland.

Part V—Schemes for the unification of grant conditions.

Part VI—New building subsidy and improvement subsidy.

Part VII—Payments in respect of hostels under pre-1974 enactments.

Supplementary provisions

72 Minor definitions

In this Part—

" building society " has the same meaning as in the Building Societies Act 1962;

" Chief Registrar ", in relation to a building society, means the Chief Registrar of Friendly Societies;

" officer ", in relation to a building society, has the same meaning as in the Building Societies Act 1962; " registered charity " has the same meaning as in Part I.

73 Index of defined expressions: Part II

The following Table shows provisions defining or explaining expressions used in this Part (other than provisions defining or explaining an expression in the same section):

approved development programme	section 41(2)
building society	section 72
Chief Registrar (in relation to a building society)	section 72
co-operative housing association	section 1(2)
dwelling	section 106
fully mutual (in relation to a housing association)	section 1(2)
heritable security	section 106
hostel	section 106
hostel deficit grant	section 55
house	section 106
housing activities	section 106
housing association	section 1(1)
housing association grant	section 41(1)
housing project	sections 42 to 45
local authority	section 106
local housing authority	section 104
officer (in relation to a building society)	section 72
registered and related expressions (in relation to a housing association)	section 3(2)
registered charity	section 72
revenue deficit grant	section 54
self-build society	section 1(3)
shared ownership lease	section 106